

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-682V

Filed: September 18, 2015

Unpublished

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MARY PHY,

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Petitioner,

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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*Paul R. Brazil, Muller Brazil, LLP, for petitioner.*

*Lara Ann Englund, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On June 30, 2015, Mary Phy filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> [the “Vaccine Act” or “Program”]. Petitioner alleges that as a result of an influenza [“flu”] vaccination on September 18, 2014, she suffered a shoulder injury. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 17, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 4-5. Specifically, respondent indicates that she has determined that petitioner’s injury is “consistent with a shoulder injury related to vaccine administration (SIRVA).” *Id.* at 4. Respondent further indicates that she “agrees that petitioner’s SIRVA was caused-in-fact by the flu vaccination she received on September 18, 2014,”

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

and that “petitioner has satisfied all legal prerequisites for compensation under the Act.”  
*Id.*

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master